



## CLOSED CASE SUMMARY

ISSUED DATE: MAY 13, 2023

FROM: DIRECTOR GINO BETTS   
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0362

### Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	8.500 - Reviewing Use of Force - TSK - 2 Use of Force - Role of the Administrative Lieutenant 4. Conducts Specific Investigative Tasks to Complete the Force Investigation	Not Sustained - Inconclusive
# 2	8.500 - Reviewing Use of Force, 8.500 - POL - 1 - Use of Force - General Principles - 1. All Reviews Must Be Completed in a Timely Manner	Not Sustained - Inconclusive
# 3	5.001 - Standards and Duties POL-2. Employees Must Adhere to Laws, City Policy, and Department Policy	Not Sustained - Inconclusive
# 4	5.001 - Standards and Duties 5.001-POL 11. Employees Will Be Truthful and Complete in All Communication	Not Sustained - Inconclusive
# 5	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional.	Not Sustained - Inconclusive

***This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.***

### EXECUTIVE SUMMARY:

It was alleged that Named Employee #1 (NE#1) failed to timely complete assignments, misrepresented the cause for the delays, and abused overtime hours.

### SUMMARY OF INVESTIGATION:

A member of NE#1's chain of command contacted OPA with the related complaint. The complaint read:

*[NE#1] was assigned as [an administrative lieutenant] during the majority of 2022. During that period, [NE#1] was counseled on numerous occasions by his chain of command regarding the need to complete [use of force (UOF)] investigations within the time frames delineated in policy. Although [NE#1's] Precinct did not have a significant UOF case load when compared to the other precincts, the completion time of the cases reviewed by [NE#1] was one of the longest. When asked by his precinct commander on the reasons why it took him such and long time to complete relatively few cases, [NE#1] claimed it was because of the extensive amount of time needed to complete the video review required by policy. The video review was cited as a reason why [NE#1] needed overtime to complete his UOF reviews. Overtime submissions from [NE#1] were at times 30 hours or more per pay period. Even with overtime, case*



---

*reviews still took a significant amount of time for [NE#1] to complete. As of the writing of this referral, [NE#1] still has incomplete UOF reviews from April and June of this year assigned to him to complete.*

OPA opened an investigation. During its investigation, OPA reviewed the complaint, and NE#1's timesheets, Evidence.com records, proxy card data, and email correspondence. OPA also interviewed NE#1 and two witness employees.

*a. Timesheets*

NE#1's timesheets for the relevant period (January 2022 to September 2022) showed his overtime submissions. Those submissions were coded HR Code 1640, indicating Use of Force Investigations and Reports. NE#1 submitted the following overtime hours for the corresponding pay period:

- January 4, 2022: 6 hours overtime
- January 18, 2022: 23 hours overtime
- February 1, 2022: 23.5 hours overtime
- March 1, 2022: 40.5 hours overtime
- March 15, 2022: 33.75 hours overtime
- March 29, 2022: 36.25 hours overtime
- April 12, 2022: 36.25 hours overtime
- April 26, 2022: 58.5 hours overtime
- May 10, 2022: 25 hours overtime
- May 24, 2022: 27.5 hours overtime
- June 7, 2022: 32 hours overtime
- June 21, 2022: 35 hours overtime
- July 5, 2022: 21.5 hours overtime
- July 19, 2022: 46.75 hours overtime
- August 2, 2022: 27.75 hours overtime
- August 16, 2022: 51.75 hours overtime
- August 30, 2022: 30.25 hours overtime
- September 13, 2022: 36.5 hours overtime
- September 27, 2022: 30 hours overtime

*b. Extensions*

OPA requested NE#1's emails for the relevant period that included the word "extension." Those emails showed NE#1 asked Witness Employee #1 (WE#1)—NE#1's supervisor's supervisor—for Use of Force investigation extensions on the following dates:

- January 24, 2022: *Sir, this Type II (actually de minimis, but suspect alleged he was choked), has been delayed due to backlog, workload, holidays. I believe everyone in the chain is back from their respective leaves. I request an extension until 2/15/22 to permit ample time for review.*



- February 23, 2022: *Sir, this Type II (taser deployment), is from December and had the normal delays (backlog, workload, holidays). I request an extension until 3/23/22 to permit ample time for Chain's review.*
- March 21, 2022: *[WE#1,] this is the one I warned you about. It is a December taser case(s) with a few different numbers associated, lots of officers and lots of video (50 hrs). Additionally, it had some front-end challenges coalescing all the moving parts. I request 30 days extension for this to make its way through the chain.*
- March 28, 2022: *[WE#1,] I have another one for you. Robbery suspect fell through a gate and down four stairs during arrest, received scraped knee. I request a 30-day extension to allow all parties sufficient time for review.*
- April 5, 2022: *[WE#1,] the next one in the queue is an elbow scrape that happened while resisting. Lots of CCTV video, which was a challenge to get formatted, and may still present some viewing difficulties for anyone who looks at it (quite glitchy). I request 30 days extension to permit all time for review.*
- April 26, 2022: *[WE#1,] I have what I think is the final of the late harvest CRG cases completed. I request a 30-day extension to permit chain's review.*
- May 20, 2022: *[Witness Employee #2 (WE#2),]<sup>1</sup> I request a 30-day extension for [two cases]. I believe this will provide sufficient time for the chain to complete its review of these cases. Both are complaints of pain, the second with a knee abrasion (following a several minute ground struggle during arrest), the first with no visible injury and a refusal to be medically evaluated. As is normal, case volume and backlog frustrate expediting, but I believe this extension will be sufficient for all parties.*
- July 29, 2022<sup>2</sup>
- August 10, 2022: *[WE#1,] I have a completed backlogged T2 [case number] and request an extension until September 10 for chain to review. This should be adequate even with vacations and such. Thanks.*

All of NE#1's extension requests were approved.

*c. Proxy Card Data*

Proxy card data shows when an employee uses a proxy card to access SPD facilities and which facility was accessed. The below dates reflect when NE#1 submitted overtime, but proxy card records did not show him accessing an SPD facility. The dates in red were coded "AA," indicating NE#1 worked at an SPD facility. Moreover, SPD's payroll supervisor confirmed the Department required "special approval" for sworn personnel to work remotely<sup>3</sup>:

- The NE reported working overtime on January 12, 13, 17, 19, 26, and 31, 2022. However, data reflects he did not use his proxy card to access an SPD facility on those dates.
- The NE reported working overtime on February 21, 26, and 27, 2022. However, data reflects he did not use his proxy card to access an SPD facility on those dates.
- The NE reported working overtime on March 6, 11, 26, and 27, 2022. However, data reflects he did not use his proxy card to access an SPD facility on those dates.
- The NE reported working overtime on April 3, 6, 7, 8, 16, 22, 23, 24, 28, and 30, 2022. However, data reflects he did not use his proxy card to access an SPD facility on those dates.
- The NE reported working overtime on May 1, 2, 22, and 28, 2022. However, data reflects he did not use his proxy card to access an SPD facility on those dates.

<sup>1</sup> This request was sent to WE#2—NE#1's direct supervisor—who temporarily served in WE#1's stead.

<sup>2</sup> This request was sent to and approved by another supervisor temporarily serving in WE#1's stead.

<sup>3</sup> OPA requested NE#1's and WE#2's emails containing "alternative work arrangement (AWA)" or "remote" for the relevant period. No emails were found indicating NE#1 had special approval to work remotely.



- The NE reported working overtime on June 5, 10, 11, 13, 14, 18, 19, 22, 24, 25, 26, 27, 28, and 29, 2022. However, data reflects he did not use his proxy card to access an SPD facility on those dates.
- The NE reported working overtime on July 1, 3, 4, 7, 9, 10, 13, 14, 15, 16, 17, 19, 20, 26, 27, and 30, 2022. However, data reflects he did not use his proxy card to access an SPD facility on those dates.
- The NE reported working overtime on August 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 23, 24, and 28, 2022. However, data reflects he did not use his proxy card to access an SPD facility on those dates.
- The NE reported working overtime on September 4, 5, 11, 18, 24, and 25, 2022. However, data reflects he did not use his proxy card to access an SPD facility on those dates.

*d. Evidence.com*

NE#1's Evidence.com audit trail for the relevant period showed the following discrepancies between his overtime entries for Use of Force Investigations and Evidence.com video reviewal:

- NE#1 reported working overtime for UOF investigations on January 12, 17, 18, 19, 20, 24, 25, 26, and 27 of 2022. However, his audit trail does not reflect login to Evidence.com or usage between January 7 and January 13 or from January 13 to January 31.
- NE#1 reported working overtime for UOF investigations on February 26 and 27 of 2022. However, his audit trail does not reflect login to Evidence.com or usage between February 24 at 10:08 PM and February 28 at 6:38 PM.
- NE#1 reported working overtime for UOF investigations on April 21 and 22, 2022. However, his audit trail does not reflect login to Evidence.com or usage between April 20 at 9:56 PM and April 23 at 3:03 PM.
- NE#1 reported working overtime for UOF investigations on April 24, 2022. However, his audit trail does not reflect login to Evidence.com or usage between April 23 at 3:26 PM and April 25 at 2:58 PM.
- NE#1 reported working overtime for UOF investigations on April 28, 2022. However, his audit trail does not reflect login to Evidence.com or usage between April 27 at 5:44 PM and April 29 at 4:10 PM.
- NE#1 reported working overtime for UOF investigations on May 2, 2022. However, his audit trail does not reflect login to Evidence.com or usage between May 1 at 5:47 PM and May 3 at 10:12 AM.
- NE#1 reported working overtime for UOF investigations on May 4, 2022. However, his audit trail does not reflect login to Evidence.com or usage between May 3 at 3:04 PM and May 5 at 3:27 PM.
- NE#1 reported working overtime for UOF investigations on May 25, 2022. However, his audit trail does not reflect login to Evidence.com or usage between May 24 at 9:47 PM and May 26 at 1:40 PM.
- NE#1 reported working overtime for UOF investigations on May 28, May 31, and June 2, 2022. However, his audit trail does not reflect login to Evidence.com or usage between May 26 at 4:23 PM and June 5 at 3:19 PM.
- NE#1 reported working overtime for UOF investigations on June 8 and June 10, 2022. However, his audit trail does not reflect login to Evidence.com or usage between June 7 at 3:55 PM and June 11 at 3:37 PM.
- NE#1 reported working overtime for UOF investigations on June 22, June 24, June 25, June 26, June 27, June 28, June 29, July 1, July 3, and July 4, 2022. However, his audit trail does not reflect login to Evidence.com or usage between June 21 at 3:03 PM and July 5 at 9:40 PM.
- NE#1 reported working overtime for UOF investigations on July 6, July 7, July 9, and July 10, 2022. However, his audit trail does not reflect login to Evidence.com or usage between July 5 at 10:20 PM and July 11 at 9:43 PM.



- NE#1 reported working overtime for UOF investigations on July 16 and July 17, 2022. However, his audit trail does not reflect login to Evidence.com or usage between July 15 at 9:33 PM and July 18 at 2:19 PM.
- NE#1 reported working overtime for UOF investigations on August 3, 2022. However, his audit trail does not reflect login to Evidence.com or usage between August 2 at 5:17 PM and August 8 at 1:12 PM.
- NE#1 reported working overtime for UOF investigations on August 10 and August 12, 2022. However, his audit trail does not reflect login to Evidence.com or usage, except for two logins on August 9 and August 11, between August 8 at 1:38 PM and August 13 at 12:54 PM.
- NE#1 reported working overtime for UOF investigations on August 17, August 18, August 19, and August 20, 2022. However, his audit trail does not reflect login to Evidence.com or usage between August 16 at 9:00 PM and August 22 at 5:23 PM.
- NE#1 reported working overtime for UOF investigations on September 4 and September 5, 2022. However, his audit trail does not reflect login to Evidence.com or usage between September 2 at 5:01 PM and September 6 at 9:41 PM. o NE#1 reported working overtime for UOF investigations on September 14, September 15, and September 16 of 2022. However, his audit trail does not reflect login to Evidence.com or usage between September 13 at 3:59 PM and September 18 at 5:02 PM.

*e. NE#1's Productivity*

NE#1 completed 16 use-of-force reviews during the relevant period. OPA flagged seven cases where NE#1's review started nearly two months or greater after the case was assigned to him, according to NE#1's log.

*f. OPA Interview – Witness Employees*

OPA interviewed WE#1 and WE#2.

WE#1 told OPA that NE#1's primary responsibility was conducting Type II use of force investigations. That work involved reviewing officer statements, body-worn videos, and external videos when necessary. WE#1 said the policy allows 30 days to complete reviews and permits approved extensions. WE#1 said extensions should be made before the 30-day mark, and late requests required a documented explanation. WE#1 also said NE#1's precinct was not among those with the highest UOF investigations. WE#1 noticed that NE#1 used significant overtime but was not completing investigations on time. WE#1 could not definitively say whether the amount of overtime NE#1 reported was atypical but said it was questionable given his caseload. WE#1 also was unaware whether NE#1 had special approval to work remotely. In a follow-up interview, WE#1 told OPA that while body-worn video reviews can be a significant part of Type II investigation reviews, it depends on the amount of video to review. WE#1 also referenced guidance the Department issued 1-1 ½ years ago, noting that only BWV relevant to the alleged force had to be reviewed.

WE#2 told OPA he approved NE#1's timesheets. WE#2 said NE#1's role was "onerous." He said it required significant video review but also required reviewing the use of force statements and summarizing observations. WE#2 said the 30-day review period was "unrealistic." WE#2 said workloads often cause admin lieutenants to fall behind. WE#2 said he noticed NE#1 was behind, counseled him, and reassigned some of his cases. WE#2 said he never disciplined NE#1 but made a PAS entry about his performance. WE#2 described NE#1's performance as not atypical from prior admin



lieutenants. WE#2 did not believe NE#1 engaged in intentional misconduct but noted NE#1 seemed overwhelmed by the work. WE#2 acknowledged NE#1 did not have special approval to work remotely but said he occasionally allowed it when NE#1 asked.

*g. OPA Interview – Named Employee #1*

NE#1 told OPA he was directed to always code AA for overtime. Otherwise, he would have distinguished between his time in the office and hours worked remotely. NE#1 also said the times he claimed overtime, but there was no corresponding Evidence.com activity he spent during the “writing” or “reading” for investigations.

**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegation #1**

***8.500 - Reviewing Use of Force - TSK - 2 Use of Force - Role of the Administrative Lieutenant 4. Conducts Specific Investigative Tasks to Complete the Force Investigation***

It was alleged that NE#1 failed to follow Type II use of force review processes.

Administrative lieutenants reviewing Type II use of force must check force packets for completeness, review the sergeant’s investigation, and conduct investigative tasks to complete the force investigation, including reviewing video and creating a log, bookmarking pertinent sections, listing officers at the scene, identifying tactics used, de-escalation, force, mitigating efforts, etc. SPD Policy 8.500-TSK-2. For reviews exceeding 30 days, administrative lieutenants must request an extension.

Here, NE#1’s chain of command did not flag, and OPA did not find that he omitted steps for reviewing Type II investigations. Instead, it was alleged that NE#1 inconsistently and untimely requested extensions. OPA’s review found that while NE#1 submitted several extension requests, some were delayed. Had NE#1 remained an admin lieutenant, OPA would have recommended a training referral to improve the timeliness of his requests. However, since NE#1 is no longer in that role and WE#2 did not believe NE#1’s lackluster performance was willful misconduct, OPA recommends this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained - Inconclusive**

**Named Employee #1 - Allegation #2**

***8.500 - Reviewing Use of Force, 8.500 - POL - 1 - Use of Force - General Principles - 1. All Reviews Must Be Completed in a Timely Manner***

It was alleged that NE#1 failed to complete work on time.

Here, although NE#1 occasionally failed to request extensions timely, there is insufficient evidence it was due to misconduct rather than poor performance. For the reasons at Named Employee #1 – Allegation #1, OPA recommends this allegation be Not Sustained - Inconclusive.

Recommended Finding: **Not Sustained - Inconclusive**



---

**Named Employee #1 - Allegation #3**

***5.001 - Standards and Duties POL-2. Employees Must Adhere to Laws, City Policy, and Department Policy***

It was alleged NE#1 violated laws and policy by misusing overtime.

For the reasons at Named Employee #1 – Allegation #1, OPA recommends this allegation be Not Sustained - Inconclusive.

Recommended Finding: **Not Sustained - Inconclusive**

**Named Employee #1 - Allegation #4**

***5.001 - Standards and Duties 5.001-POL 11. Employees Will Be Truthful and Complete in All Communication***

It was alleged that NE#1's overtime submissions were dishonest.

Here, WE#2 approved NE#1's overtime hours. Further, WE#2 did not believe NE#1 misused overtime. Instead, WE#2 thought NE#1 lacked training and the necessary skill set for adequately performing his role. For those reasons and those at Named Employee #1 – Allegation #1, OPA recommends this allegation be Not Sustained - Inconclusive.

Recommended Finding: **Not Sustained - Inconclusive**

**Named Employee #1 - Allegation #5**

***5.001 - Standards and Duties 10. Employees Shall Strive to be Professional.***

For the reasons at Named Employee #1 – Allegation #1, OPA recommends this allegation be Not Sustained - Inconclusive.

Recommended Finding: **Not Sustained - Inconclusive**